

DEPARTMENT OF STATE REVENUE

03-20080335P.LOF

Letter of Findings Number: 08-0335P
Withholding Tax-Penalty
For the Periods January, February, and March 2008

NOTICE: Under IC § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE**I. Tax Administration—Penalty.**

Authority: IC § 6-8.1-10-5.

Taxpayer protests the imposition of the one-hundred percent penalty for remitting dishonored electronic payments.

STATEMENT OF FACTS

Taxpayer was assessed a ten-percent penalty for issuing three electronic payments that was subsequently dishonored. The Indiana Department of Revenue ("Department") later issued a one-hundred percent penalty for the dishonored payments. Taxpayer protested the imposition of the penalty. Additional facts will be supplied as necessary.

I. Tax Administration—Penalty.**DISCUSSION**

Taxpayer protests the imposition of a penalty for issuing a subsequently-dishonored electronic payment.

Under IC § 6-8.1-10-5, a person who issues a payment upon which the Department is unable to obtain payment—in whole or in part—is subject to penalties based on the amount upon which the Department is unable to collect. IC § 6-8.1-10-5 (a) provides for a ten-percent penalty. Under IC § 6-8.1-10-5 (b), the Department is required to then give the person ten days in which to pay the tax and penalty, or the penalty increases to one hundred percent. However, the penalties can be waived upon a showing of reasonable cause.

Taxpayer argues that its payments were blocked as a result of a debit block placed on an account. However, Taxpayer's correspondence does not indicate the source of the debit block. Furthermore, Taxpayer did not resolve the dishonored payment situation until three separate payments had been dishonored. Taxpayer's inaction does not justify penalty waiver.

FINDING

Taxpayer's protest is denied.

Posted: 01/28/2009 by Legislative Services Agency

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